

By: Paxton

H.J.R. No. 53

A JOINT RESOLUTION

1 proposing a constitutional amendment regarding limitations on
2 taxation and expenditures by the state government and local
3 governments.

4 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 22, Article VIII, Texas Constitution, is
6 amended to read as follows:

7 Sec. 22. (a) The [~~In no biennium shall the~~] rate of growth
8 of appropriations from the state treasury for a fiscal biennium, as
9 compared to the previous fiscal biennium, from all available
10 sources of revenue except federal pass-through grants may not
11 [~~state tax revenues not dedicated by this constitution~~] exceed the
12 [~~estimated~~] rate of growth during the fiscal biennium of this [~~the~~]
13 state's economy as estimated by the comptroller of public accounts.
14 The comptroller shall estimate the rate of growth to be the lesser
15 of:

16 (1) the sum of:

17 (A) the estimated rate of growth of this state's
18 population during the fiscal biennium; and

19 (B) the estimated rate of monetary inflation
20 during the fiscal biennium;

21 (2) the estimated rate of growth in the gross state
22 product during the fiscal biennium; or

23 (3) the estimated rate of growth of personal income of
24 residents of this state during the fiscal biennium.

1 (b) During the first week of each regular legislative
2 session, the comptroller of public accounts shall specify the limit
3 under this section on the amount of permissible appropriations from
4 all available sources of revenue, except federal pass-through
5 grants, for the next fiscal biennium. The comptroller shall
6 determine the limit by multiplying the amount of appropriations for
7 the then-current fiscal biennium by the sum of one plus the
8 comptroller's estimated rate of growth of this state's economy
9 during the next fiscal biennium.

10 (c) During the first week of each regular legislative
11 session, the comptroller also shall:

12 (1) report to the legislature a revised figure for the
13 rate of growth of this state's economy during the then-current
14 fiscal biennium computed as provided by Subsection (a) of this
15 section and based on then-current information; and

16 (2) specify the revised limit under this section on
17 the amount of permissible appropriations from all available sources
18 of revenue, except federal pass-through grants, for the
19 then-current fiscal biennium, determined by multiplying the amount
20 of appropriations for the previous fiscal biennium by the sum of one
21 plus the revised figure for the rate of growth.

22 (d) During each regular legislative session in which the
23 comptroller's revised limit on the amount of permissible
24 appropriations for the then-current fiscal biennium is less than
25 the limit for that biennium as specified during the previous
26 regular legislative session, the legislature shall adopt one or
27 more supplemental appropriations acts to adjust the amount of

1 appropriations for the then-current fiscal biennium to conform to
2 the decreased permissible amount of appropriations. [~~The~~
3 ~~legislature shall provide by general law procedures to implement~~
4 ~~this subsection.~~]

5 (e) [~~(b)~~] If the legislature by adoption on a record vote of
6 a resolution approved by four-fifths [~~a record vote of a majority~~]
7 of the members of each house during a regular legislative session or
8 during a special legislative session finds that an emergency exists
9 and identifies the nature of the emergency, the legislature may
10 provide for appropriations in excess of the applicable amount the
11 comptroller of public accounts specifies under [~~authorized by~~]
12 Subsection (b) or (c) [~~(a)~~] of this section as the limit on the
13 permissible amount of appropriations. The total of the excess
14 appropriations authorized by resolutions approved under this
15 subsection may not exceed the total of the amounts [~~amount~~]
16 specified in those resolutions [~~the resolution~~].

17 (f) If the comptroller of public accounts, acting under
18 Subsection (c) of this section, reports to the legislature a
19 revised limit on the permissible amount of appropriations for the
20 then-current biennium that is less than the limit for that biennium
21 specified during the previous regular legislative session, the
22 legislature may waive the legislature's duty under Subsection (d)
23 of this section to adjust the amount of appropriations to conform to
24 the decreased permissible amount by adopting a resolution finding
25 that an emergency exists and identifying the nature of the
26 emergency. A resolution under this subsection must be adopted on a
27 record vote and approved by four-fifths of the members of each

1 house.

2 (g) If the legislature acting in accordance with a
3 resolution adopted under Subsection (e) or (f) of this section
4 appropriates an amount that exceeds the most-current specified
5 limit under this section on the permissible amount of
6 appropriations, the comptroller of public accounts, in determining
7 the limit on the permissible amount of appropriations for the next
8 biennium under Subsection (b) of this section, shall substitute for
9 the amount of appropriations for the then-current fiscal biennium
10 the most-current specified limit for that biennium.

11 (h) [~~(c)~~] In no case shall appropriations exceed revenues
12 as provided in Article III, Section 49a, of this constitution.
13 Nothing in this section shall be construed to alter, amend, or
14 repeal Article III, Section 49a, of this constitution.

15 (i) Any appropriations from the budget stabilization fund
16 or the property tax relief fund that are made for purposes of
17 reducing or refunding payments of state or local taxation do not
18 count against the limit on the permissible amount of appropriations
19 under this section.

20 SECTION 2. Article VIII, Texas Constitution, is amended by
21 adding Section 22-a to read as follows:

22 Sec. 22-a. (a) In this section:

23 (1) "Local government" means a county, municipality,
24 or school district.

25 (2) "Standard fiscal year" means the period from
26 September 1 of a calendar year through August 31 of the following
27 calendar year.

1 (b) Except as provided by this section, the rate of growth
2 in a local government's expenditures for a standard fiscal year as
3 compared to the previous standard fiscal year from all available
4 sources of revenue except federal pass-through grants may not
5 exceed the rate of growth during the standard fiscal year of the
6 economy of the local government's geographic jurisdiction as
7 estimated by the comptroller of public accounts. The comptroller
8 shall estimate the rate of growth to be the lesser of:

9 (1) the sum of:

10 (A) the estimated rate of growth of the
11 population of the local government's geographic jurisdiction
12 during the standard fiscal year; and

13 (B) the estimated rate of monetary inflation
14 during the standard fiscal year;

15 (2) the estimated rate of growth in the gross state
16 product during the standard fiscal year; or

17 (3) the estimated rate of growth of personal income of
18 residents of the local government's geographic jurisdiction during
19 the standard fiscal year.

20 (c) On or before January 31 of each year, the comptroller
21 shall specify for each local government a limit on the permissible
22 rate of growth for the local government's expenditures from all
23 available sources of revenue, except federal pass-through grants,
24 for the next standard fiscal year.

25 (d) On or before January 31 of each year, the comptroller
26 also shall report to each local government a revised figure for the
27 rate of growth of the economy of the local government's geographic

1 jurisdiction during the then-current standard fiscal year computed
2 as provided by Subsection (b) of this section and based on
3 then-current information. The governing body of each local
4 government shall redetermine the amount of permissible
5 expenditures for the then-current fiscal year as provided by this
6 section and:

7 (1) revise the local government's budget as necessary
8 to prevent the local government's expenditures during that standard
9 fiscal year from exceeding the limitation imposed by this section;
10 or

11 (2) authorize expenditures that exceed that limit in
12 the manner provided by this section.

13 (e) A local government, in determining its amount of
14 permissible expenditures for a standard fiscal year, shall compute
15 that amount by multiplying the amount of its authorized
16 expenditures for the preceding standard fiscal year by the sum of
17 one plus the comptroller's reported estimated rate of growth of the
18 economy of the local government's geographic jurisdiction. If the
19 local government authorized expenditures under Subsections (f)
20 through (i) of this section for the preceding standard fiscal year
21 that exceeded the amount otherwise permissible under this section,
22 the local government in determining its amount of permissible
23 expenditures for the standard fiscal year shall compute that amount
24 by multiplying the amount of expenditures for the preceding
25 standard fiscal year that would have been authorized but for the
26 extraordinary expenditures by the sum of one plus the comptroller's
27 reported estimated rate of growth of the economy of the local

1 government's geographic jurisdiction.

2 (f) The governing body of a local government may authorize
3 expenditures that exceed the amount authorized under Subsection (e)
4 of this section only on the approval of at least four-fifths of the
5 members of the governing body.

6 (g) Before the governing body votes on a proposal to
7 authorize expenditures in a total amount that exceeds the amount
8 authorized under Subsection (e) of this section, the governing body
9 must hold two public hearings on the proposal. The first public
10 hearing may not be held before the seventh day after the date the
11 local government gives notice of the public hearing. The second
12 public hearing may not be held before the third day after the date
13 of the first public hearing. Each hearing must be held on a weekday
14 that is not a public holiday. Each hearing must be held inside the
15 local government's boundaries and in a publicly owned building or,
16 if a suitable publicly owned building is not available, in a
17 suitable building to which the public normally has access. At the
18 hearings, the governing body of the local government must provide
19 adequate opportunity for proponents and opponents of the proposal
20 to exceed the limit on expenditures to express their views.

21 (h) The governing body of a local government shall vote on a
22 proposal to authorize expenditures that exceed the amount
23 authorized under Subsection (e) of this section at a meeting held
24 not before the third day and not later than the 14th day after the
25 date of the second public hearing held under Subsection (g) of this
26 section.

27 (i) The governing body of a local government shall give

1 notice of the date, time, and place of a hearing held under
2 Subsection (g) of this section or a meeting held under Subsection
3 (h) of this section by publishing the notice in a newspaper of
4 general circulation in each county in which the local government's
5 territory lies. The notice may not be smaller than one-quarter page
6 of a standard-size or a tabloid-size newspaper. The headline on the
7 notice must be in 24-point or larger type. The notice must describe
8 the nature and purpose of the hearing or meeting and invite the
9 public.

10 (j) The governing body of each local government shall
11 determine whether estimated revenues from all sources, except
12 federal pass-through grants, during a standard fiscal year will
13 total an amount that exceeds the maximum amount of expenditures
14 authorized under this section for that standard fiscal year. If the
15 estimated relevant revenues total an amount that exceeds the
16 authorized amount of expenditures and the local government has a
17 property tax rate greater than zero, the governing body shall
18 reduce its property tax rate to the greater of:

19 (1) a rate estimated to reduce property tax revenues
20 by an amount necessary to reduce the total relevant revenues to an
21 amount that does not exceed the amount of the limit on expenditures;
22 or

23 (2) zero.

24 (k) A local government may use any fiscal year otherwise
25 permissible by law, but the local government in managing its
26 expenditures shall ensure that its expenditures for a standard
27 fiscal year conform to the requirements of this section.

1 SECTION 3. Section 49a, Article III, Texas Constitution, is
2 amended by adding Subsection (c) to read as follows:

3 (c) A bill containing an appropriation of money from any
4 source except for a federal pass-through grant may not be
5 considered as passed and may not be sent to the Governor for
6 consideration until and unless the Comptroller of Public Accounts
7 endorses on the bill the Comptroller's certificate showing that the
8 appropriation does not contravene the limitation on the rate of
9 growth of appropriations imposed by Section 22, Article VIII, of
10 this constitution. When the Comptroller finds that a bill contains
11 an appropriation that contravenes the limitation on the rate of
12 growth of appropriations, the Comptroller shall endorse that
13 finding on the bill, return the bill to the House from which it
14 originated, and immediately notify the House of Representatives and
15 the Senate of the finding.

16 SECTION 4. Section 49-g, Article III, Texas Constitution,
17 is amended to read as follows:

18 Sec. 49-g. (a) The budget [~~economic~~] stabilization fund is
19 established as a special fund in the state treasury.

20 (b) For purposes of this section, general revenue is
21 encumbered on the last day of a fiscal biennium only to the extent
22 that the revenue is subject to payment for particular identifiable
23 and legally enforceable obligations of the state that were incurred
24 on or before that day and intended to be paid from appropriations
25 for that fiscal biennium.

26 (c) Not [~~The comptroller shall, not~~] later than the 90th day
27 of each fiscal biennium, the comptroller shall:

1 (1) transfer to the budget [~~economic~~] stabilization
2 fund one-half of any unencumbered positive balance of general
3 revenues on the last day of the preceding fiscal biennium; and

4 (2) transfer the remaining unencumbered positive
5 balance of general revenues on the last day of the preceding fiscal
6 biennium to the property tax relief fund. [If necessary, the
7 comptroller shall reduce the amount transferred in proportion to
8 the other amounts prescribed by this section to prevent the amount
9 in the fund from exceeding the limit in effect for that biennium
10 under Subsection (g) of this section.]

11 (d) To the extent that the reports of payables and binding
12 encumbrances on which the transfers under Subsection (c) of this
13 section were based prove to have been underestimated, the
14 comptroller may reclaim money transferred under Subsection (c) of
15 this section in an amount that the comptroller determines is
16 necessary to pay a claim that is legally payable from an
17 appropriation that was encumbered to pay the claim before the
18 expiration of the appropriation but the balance of which is
19 insufficient to pay the claim.

20 (e) [-(e)] Not later than the 90th day of each fiscal year,
21 the comptroller of public accounts shall transfer from general
22 revenue to the budget [~~economic~~] stabilization fund the amounts
23 prescribed by Subsections (f) and (g) [~~(d) and (e)~~] of this section.
24 [~~However, if necessary, the comptroller shall reduce~~
25 ~~proportionately the amounts transferred to prevent the amount in~~
26 ~~the fund from exceeding the limit in effect for that biennium under~~
27 ~~Subsection (g) of this section.]~~

1 (f) [~~(d)~~] If in the preceding year the state received from
2 oil production taxes a net amount greater than the net amount of oil
3 production taxes received by the state in the fiscal year ending
4 August 31, 1987, the comptroller shall transfer to the budget
5 [~~economic~~] stabilization fund an amount equal to 75 percent of the
6 difference between those amounts. The comptroller shall retain the
7 remaining 25 percent of the difference as general revenue. In
8 computing the net amount of oil production taxes received, the
9 comptroller may not consider refunds paid as a result of oil
10 overcharge litigation.

11 (g) [~~(e)~~] If in the preceding year the state received from
12 gas production taxes a net amount greater than the net amount of gas
13 production taxes received by the state in the fiscal year ending
14 August 31, 1987, the comptroller shall transfer to the budget
15 [~~economic~~] stabilization fund an amount equal to 75 percent of the
16 difference between those amounts. The comptroller shall retain the
17 remaining 25 percent of the difference as general revenue. For the
18 purposes of this subsection, the comptroller shall adjust his
19 computation of revenues to reflect only 12 months of collection.

20 (h) [~~(f)~~] The legislature by general law or in a general
21 appropriations act may transfer to the budget [~~appropriate~~
22 ~~additional amounts to the economic~~] stabilization fund or to the
23 property tax relief fund additional amounts of money. A transfer
24 made under this subsection is not an appropriation for purposes of
25 Section 22, Article VIII, of this constitution.

26 ~~[(g) During each fiscal biennium, the amount in the economic~~
27 ~~stabilization fund may not exceed an amount equal to 10 percent of~~

1 ~~the total amount, excluding investment income, interest income, and~~
2 ~~amounts borrowed from special funds, deposited in general revenue~~
3 ~~during the preceding biennium.]~~

4 (i) ~~[(h)]~~ In preparing an estimate of anticipated revenues
5 for a succeeding biennium as required by Article III, Section 49a,
6 of this constitution, the comptroller shall estimate the amount of
7 the transfers that will be made under Subsections (c), (f), and (g)
8 ~~[(b), (d), and (e)]~~ of this section. The comptroller shall deduct
9 that amount from the estimate of anticipated revenues as if the
10 transfers were made on August 31 of that fiscal year.

11 ~~[(i) The comptroller shall credit to general revenue~~
12 ~~interest due to the economic stabilization fund that would result~~
13 ~~in an amount in the economic stabilization fund that exceeds the~~
14 ~~limit in effect under Subsection (g) of this section.]~~

15 (j) The comptroller may transfer money from the budget
16 ~~[economic]~~ stabilization fund to general revenue to prevent or
17 eliminate a temporary cash deficiency in general revenue. The
18 comptroller shall return the amount transferred to the budget
19 ~~[economic]~~ stabilization fund as soon as practicable, but not later
20 than August 31 of each odd-numbered year. The comptroller shall
21 allocate the depository interest as if the transfers had not been
22 made. If the comptroller submits a statement to the governor and
23 the legislature under Article III, Section 49a, of this
24 constitution when money from the budget ~~[economic]~~ stabilization
25 fund is in general revenue, the comptroller shall state that the
26 transferred money is not available for appropriation from general
27 revenue.

1 (k) Except as otherwise provided by this section, amounts
2 ~~[Amounts]~~ from the budget ~~[economic]~~ stabilization fund for the
3 then-current biennium may be appropriated during a regular
4 legislative session only for a purpose for which an appropriation
5 from general revenue was made by the preceding legislature and may
6 be appropriated in a special session only for a purpose for which an
7 appropriation from general revenue was made in a preceding
8 legislative session of the same legislature. An appropriation from
9 the budget ~~[economic]~~ stabilization fund under this subsection may
10 be made only if the comptroller certifies that appropriations from
11 general revenue made by the preceding legislature for the
12 then-current ~~[current]~~ biennium exceed available general revenues
13 and cash balances for the remainder of that biennium. The amount of
14 an appropriation from the budget ~~[economic]~~ stabilization fund
15 under this subsection may not exceed the difference between the
16 comptroller's estimate of general revenue for the then-current
17 ~~[current]~~ biennium at the time the comptroller receives for
18 certification the bill making the appropriation and the amount of
19 general revenue appropriations for that biennium previously
20 certified by the comptroller. Appropriations from the budget
21 ~~[economic]~~ stabilization fund under this subsection may not extend
22 beyond the last day of the then-current ~~[current]~~ biennium. An
23 appropriation from the budget ~~[economic]~~ stabilization fund under
24 this subsection must be approved by a three-fifths vote of the
25 members present in each house of the legislature.

26 (1) If an estimate of anticipated revenues for a succeeding
27 biennium prepared by the comptroller pursuant to Article III,

1 Section 49a, of this constitution is less than the revenues that are
 2 estimated at the same time by the comptroller to be available for
 3 the then-current [~~current~~] biennium, the legislature may, by a
 4 three-fifths vote of the members present in each house, appropriate
 5 for the succeeding biennium from the budget [~~economic~~]
 6 stabilization fund an amount not to exceed this difference.
 7 Following each fiscal year, the actual amount of revenue shall be
 8 computed, and if the estimated difference exceeds the actual
 9 difference, the comptroller shall transfer the amount necessary
 10 from general revenue to the budget [~~economic~~] stabilization fund so
 11 that the actual difference shall not be exceeded. If all or a
 12 portion of the difference in revenue from one biennium to the next
 13 results, at least in part, from a change in a tax rate or base
 14 adopted by the legislature, the computation of revenue difference
 15 shall be adjusted to the amount that would have been available had
 16 the rate or base not been changed.

17 (m) [~~In addition to the appropriation authority provided by~~
 18 ~~Subsections (k) and (l) of this section, the legislature may, by a~~
 19 ~~two-thirds vote of the members present in each house, appropriate~~
 20 ~~amounts from the economic stabilization fund at any time and for any~~
 21 ~~purpose.~~

22 [~~(n)~~] Money appropriated from the budget [~~economic~~]
 23 stabilization fund is subject to being withheld or transferred,
 24 within any limits provided by statute, by any person or entity
 25 authorized to exercise the power granted by Article XVI, Section
 26 69, of this constitution.

27 (n) [~~(o)~~] The comptroller of public accounts shall disburse

1 revenue deposited in the property tax relief fund under this
2 section to public school districts to reduce public school district
3 property tax rates as provided by rules of the comptroller adopted
4 to implement this subsection. The comptroller's rules adopted
5 under this subsection must be designed to provide for property tax
6 relief in accordance with any general law provisions for use of
7 money from the property tax relief fund. On the last day of each
8 fiscal biennium during which property tax rates for public schools
9 are set at zero percent as a result of property tax relief fund and
10 any other state disbursements, the comptroller shall transfer to
11 the budget stabilization fund the unencumbered balance of the
12 property tax relief fund.

13 (o) If on the last day of a fiscal biennium the unencumbered
14 balance of the budget stabilization fund exceeds five percent of
15 the total amount of appropriations for that fiscal biennium, the
16 comptroller of public accounts shall transfer one-half of that
17 unencumbered excess balance to a special fund in the state treasury
18 to be known as the state sales tax relief fund. The state sales tax
19 relief fund may be used only for a state sales tax relief period as
20 provided by this subsection and rules of the comptroller. If the
21 comptroller determines that the balance of the state sales tax
22 relief fund will support a state sales tax relief period of at least
23 three days, the comptroller shall declare a period during which
24 state sales tax rates are reduced by one-eighth of a cent for a
25 period the comptroller determines to be long enough so that the
26 difference between state sales tax receipts during the relief
27 period and the state sales tax receipts that would otherwise have

1 been collected during that period will equal not more than the
2 balance of the state sales tax relief fund. The comptroller shall
3 transfer to the general revenue fund from the state sales tax relief
4 fund an amount equal to the amount of revenue foregone as a result
5 of the state sales tax relief period at any time during that state
6 fiscal biennium that the comptroller determines appropriate. If
7 the comptroller determines that the balance of the state sales tax
8 relief fund will not support a state sales tax relief period of at
9 least three days, the comptroller may not declare a relief period
10 and shall retain the entire balance of the state sales tax relief
11 fund in the fund for use only for a future state sales tax relief
12 period. The comptroller may recover from the state sales tax relief
13 fund expenses incurred in administering this subsection without the
14 necessity of an appropriation.

15 (p) If on the last day of a fiscal biennium the unencumbered
16 balance of the budget stabilization fund exceeds five percent of
17 the total amount of appropriations for that fiscal biennium, the
18 comptroller of public accounts shall transfer one-half of that
19 unencumbered excess balance to a special fund in the state treasury
20 to be known as the state franchise tax relief fund. The state
21 franchise tax relief fund may be used only to provide a proportional
22 rebate to payers of the state franchise tax in accordance with rules
23 of the comptroller. The comptroller by rule shall provide for a
24 biennial rebate from any amounts in the state franchise tax relief
25 fund to payers of the state franchise tax. The rebates must be paid
26 in amounts directly proportional to the amounts paid by those
27 taxpayers during the fiscal biennium preceding the biennium in

1 which the rebates are made. The comptroller may recover from the
2 state franchise relief fund expenses incurred in administering this
3 subsection without the necessity of an appropriation.

4 (g) In this section, "net" means the amount of money that is
5 equal to the difference between gross collections and refunds
6 before the comptroller allocates the receipts as provided by law.

7 SECTION 5. The following temporary provision is added to
8 the Texas Constitution:

9 TEMPORARY PROVISION. (a) This temporary provision applies
10 to the amendments to Section 22, Article VIII, Section 49a, Article
11 III, and Section 49-g, Article III, of this constitution, and to the
12 addition of Section 22-a, Article VIII, to this constitution,
13 proposed by the 80th Legislature, Regular Session, 2007, regarding
14 limitations on taxation and expenditures by the state government
15 and local governments. This temporary provision expires December
16 1, 2010.

17 (b) The changes made to Section 22, Article VIII, and
18 Section 49a, Article III, of this constitution by the amendments
19 apply only in relation to appropriations made for the state fiscal
20 biennium beginning September 1, 2009, and subsequent state fiscal
21 bienniums. Appropriations for the state fiscal biennium that began
22 September 1, 2007, are governed by Section 22, Article VIII, and
23 Section 49a, Article III, as they existed on January 1, 2007.

24 (c) In relation to appropriations made for the state fiscal
25 biennium beginning September 1, 2009, and subsequent state fiscal
26 bienniums, the changes made to Section 22, Article VIII, of this
27 constitution by the amendments invalidate conflicting or

1 inconsistent general laws of this state, including Sections 316.001
2 through 316.008, Government Code, as that law existed on January 1,
3 2007.

4 (d) Section 22-a, Article VIII, of this constitution
5 applies only in relation to expenditures made by a municipality,
6 county, or school district on or after September 1, 2009.
7 Expenditures made by a municipality, county, or school district
8 before September 1, 2009, are governed by the provisions of this
9 constitution in effect immediately before the amendment adding
10 Section 22-a, Article VIII, of this constitution was approved by
11 the voters.

12 (e) The changes made by the amendments to Section 49-g,
13 Article III, of this constitution apply beginning with any
14 unencumbered positive balance of general revenues on August 31,
15 2009.

16 SECTION 6. This proposed constitutional amendment shall be
17 submitted to the voters at an election to be held November 6, 2007.
18 The ballot shall be printed to provide for voting for or against the
19 proposition: "The constitutional amendment regarding limitations
20 on taxation and expenditures by the state government and local
21 governments."